




KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 05-107	PAGE NUMBER 1 of 4
Approved By:  Secretary of Corrections		SUBJECT: INFORMATION TECHNOLOGY AND RECORDS: Confidentiality/Release of Medical and Mental Health Information	
Reissued By:  Policy & Procedure Coordinator		Original Date Issued: 07-23-84 Current Amendment Effective: 11-13-09 Replaces Amendment Issued: 06-26-06 The substantive content of this IMPP has been reissued as per the appropriate provisions of IMPP 01-101. The only modifications within the reissue of this document concern technical revisions of a non substantive nature. Date Reissued: 01-07-11	

POLICY

All medical and mental health records are confidential and shall be handled in accordance with State and federal statutes and regulations regarding confidentiality and privacy. (ACO 2-4E-01; ACI 3-4330, 3-4377; NCCHC P-61) The policies of the Departmental Health Authority, as approved by the Department, shall control access to medical and mental health records and information and indicate the procedures for maintenance and safekeeping of health records. (ACI 3-4330, 3-4376; NCCHC P-60) Health records shall be maintained under secure conditions in the health care unit. (NCCHC P-61) Confidential information shall be provided to departmental staff and other care providers, as determined necessary by the Health Authority, to protect the welfare of the inmate and/or staff, or, in the interest of facility operations. (ACI 3-4330, 3-4377; NCCHC P-61, P-62) The release of confidential medical and mental health care information shall require appropriate written consent, and shall be accomplished only within the appropriate policies and procedures of both this document and IMPP 05-105.

DEFINITIONS

Departmental Health Authority: The medical director of the agency or organization responsible for the provision of health care services for the Kansas Department of Corrections.

Facility Health Authority: The physician or health administrator responsible for the provision of health care services at a facility. The Facility Health Authority works under the direction of the Departmental Health Authority.

Health Record: Medical and mental health information maintained and secured by the health care provider and contained in the form of electronic / paper media.

Electronic Medical Record: Reflects all medical, mental health, dental, and psychiatric orders and treatments provided, including consultations and X-ray films stored electronically in the electronic medical records system.

PROCEDURES

I. Access to Health Records

- A. Access to health records shall be limited to properly authorized personnel having a demonstrated need for access to these records as determined by the warden and the Departmental Health Authority's policy. (ACI 3-4330, 3-4377; NCCHC P-61)

1. In order to preserve the health and safety of correctional staff, the inmate, and other inmates, strictly on a need to know basis, the Facility Health Authority shall share information with staff about inmates with: (NCCHC P-62)
 - a. Chronic conditions (e.g., diabetes and epilepsy);
 - b. Mental instabilities (e.g., psychoses and suicidal ideation);
 - c. Physical limitations; and/or,
 - d. Prescribed medications with potential side effects.
2. The Facility Health Authority shall provide pertinent information in writing regarding an inmate's health status/medications to parole staff immediately prior to an inmate's release on parole or post-release supervision.

II. Release of Health Information

- A. Federal Alcohol and Drug Abuse Regulations pertaining to confidentiality shall be adhered to whenever any information from an inmate's health record is provided, including alcohol and drug abuse programs.
- B. Records received from non-KDOC health care agencies, to facilitate the treatment of an inmate, shall not be released to a third party agency or individual.
 1. The source of such information may be made available for release to a third party.
- C. Confidential information shall be disclosed if the Facility Health Authority determines such disclosure is necessary to protect against the following:
 1. Suicide;
 2. Communicable disease;
 3. Injury to self or others; and/or,
 4. A threat to the safety and security of the facility.

III. Release of Information: Written Authorization (ACI 3-4330, 3-4378)

- A. When releasing information from the health record, original materials shall not be removed/released from the facility.
- B. Prior to releasing health information, KDOC officials shall have in their possession one of the following:
 1. A properly executed Department of Corrections Consent for Release of Confidential Medical Information Form, Attachment A;
 - a. The consent for release of information shall:
 - (1) Be signed by the inmate (ACI 3-4330, 3-4378; NCCHC P-62), parent, guardian or legal representative;
 - (2) Specify information that is authorized to be released;
 - (3) Include date treatment began; and,

- (4) Indicate length of time the release of information is in effect.
- b. The original of all release of information requests shall be placed in the inmate's medical file.
2. A Court Order; or,
3. A subpoena accompanied by executed KDOC Consent for Release of Confidential Medical Information, Court Order, or (if applicable) a statement from the inmate's attorney indicating that the inmate has put his/her medical condition into issue by filing a law suit.

IV. Release of Information: Without Written Authorization

- A. Release of the RDU Evaluation Report shall be limited to those parties and agencies identified in KSA 75-5266 and IMPP 05-101.
- B. A summary of psychiatric, or psychological, and social work information shall be released only when deemed appropriate by the Facility Health Authority or designee.
- C. Information concerning reportable diseases shall be released to local and State health departments in accordance with State statutes.
- D. Medical and mental health status reports shall be provided by the Facility Health Authority, or designee, to:
 1. The warden when questions arise pertaining to transfer, classification, or change of treatment;
 2. The Secretary, warden, or designees for purposes of monitoring and evaluating the delivery of medical and mental health services;
 3. Outside physicians in an emergency, surgical, or treatment situation for the purpose of continuity of care;
 4. Parole services, when an inmate is released from a facility;
 5. Other KDOC facilities when an inmate is being transferred inter-facility; and,
 6. A person with legal power of attorney for the inmate's health care.
- E. The facility staff shall be responsible for processing any requests or the release of information if the inmate's records are still within their control. In cases where inmate files are no longer at the facility, the Central Office Records Administrator shall be responsible for processing any release of information.

V. Use of Health Records in Research Projects (ACO 2-1F-15)

- A. The use of medical and/or mental health records for approved evaluation and research projects may be granted if:
 1. The requirements of IMPP 06-101, Research and Evaluation Activities, are met; and,
 2. The identity of the inmates or release of such information would not have a direct adverse effect on the inmates involved.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities who are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the

Department of Corrections to either employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are considered to be compliant with all applicable Federal statutes and/or regulatory requirements. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

KSA 75-5266
IMPP 05-101, 06-101
ACO 2-4E-01
ACI 3-4377, 3-4378
NCCHC P-60, 61, 62

ATTACHMENTS

Attachment A – Consent for Release of Confidential Medical Information, 1 page

AUTHORIZATION FOR RELEASE OF HEALTH INFORMATION

Name: _____

DOB: _____ SSN: _____

I authorize _____ to release health information to: _____
I authorize the use or disclosure of the named individual's health information as described below for the purpose of _____.

Information To Be Released:

- ☐ Entire medical record (to include ER records, admission and discharge summaries, dictated reports and consults, operative and procedure reports, intraoperative and procedure flow sheets, informed consents, physician orders, progress notes, nurses notes, flow sheets, medication and transfusion records, test results, labs, pictures, pathology reports, EKGs, fetal monitoring strips, office records, immunization records, growth charts, telemetry strips, radiology and other diagnostic reports, patient instructions).
- ☐ Any and all
- ☐ Other (specify) _____

I authorize the use or disclosure of the above named individual's health information as described below for the purpose of consulting with my attorney. **The following items must be checked and initialed to be included in the use and/or disclosure of other health information:**

- ☐ _____ HIV/AIDS related treatment
- ☐ _____ Sexually transmitted diseases
- ☐ _____ Mental health
- ☐ _____ Drug/alcohol diagnosis, treatment/referral.
- I understand that I may revoke this authorization in writing at any time, provided that I do so in writing to _____, or its agent, except to the extent that the records have already been released. Unless revoked earlier, this authorization will expire 12 months from the date of signing or until _____, which ever date occurs FIRST.
 - I understand authorizing the disclosure of health information is voluntary. I can refuse to sign this authorization. I understand that if the person or entity receiving the information is not a health care provider or health plan covered by federal HIPAA privacy regulations, the information described above may be redisclosed and no longer protected by these regulations. However, the recipient may be prohibited from disclosing substance abuse information under the Federal Substance Abuse Confidentiality Requirements.
 - I acknowledge that I have received a copy of this authorization.

Patient or Patient Representative* Date _____ Signature of

If patient representative, proof establishing authority to execute Release must accompany this signed document.